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FISCAL IMPACT STATEMENT

LS 6811

BILL NUMBER: HB 1215

NOTE PREPARED: Jan 6, 2010

BILL AMENDED:

SUBJECT: Impaired Driving.

FIRST AUTHOR: Rep. Walorski

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Habitual Traffic Violator:* This bill adds certain motor vehicle offenses committed while under the influence of a controlled substance to the list of offenses whose commission may cause a person to be a habitual traffic violator.

Criminal Recklessness: It provides that operating a motor vehicle while under the influence of certain controlled substances resulting in serious bodily injury or death constitutes criminal recklessness.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Habitual Traffic Violator:* There are no data available to indicate how many people may have a judgement twice in 10 years concerning the listed violations resulting in lifetime suspension of driving privileges. The requirements for the Bureau of Motor Vehicles (BMV) to determine from the records maintained by the BMV whether a person is a habitual offender, send notice, and suspend the person's license for life are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels. [On average between 2006 and 2009, there were seven habitual offenders who had their license suspended for life.]

Criminal Recklessness: Also, there are no data to indicate how many more offenders may be convicted of criminal recklessness as a Class D felony if the definition of the crime is expanded to include an offense committed with a motor vehicle and the person who committed the offense was under the influence of a controlled substance or had a Schedule I or II drug or its metabolite in the person's system. Offenders may be convicted of criminal recklessness as a Class C felony if the offense described above resulted in death.

Depending upon mitigating and aggravating circumstances, a Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, and a Class C felony is punishable by a prison term ranging from 2 to 8 years. The average expenditure to house an adult offender was \$20,194 in FY 2009. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$75,050 in FY 2009. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months and for all Class C felony offenders is approximately two years.

Explanation of State Revenues: *Criminal Recklessness:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C or D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Criminal Recklessness:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Criminal Recklessness:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; DOC.

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